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Supreme Count, U. S. F. I. L. E. D. 3

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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-260

Louis J. Lefkowitz, Attorney General of the State of New York,

Appellant,

against

PATRICK J. CUNNINGHAM, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Appeal Docketed August 21, 1976

Probable Jurisdiction Noted October 18, 1976

INDEX

	PAGE
Docket Entries	1
Complaint	4
Transcript of Record of Proceedings dated April 19, 1976 (in part)	11
Rules of the Democratic Party of the State of New York	18
The Decision of the District Court has been reproduced in the Appendix to Jurisdictional Statement at 1a-20a.	
The Final Judgment of the District Court has been reproduced in the Appendix to Jurisdictional Statement at 21a.	

Docket Entries.

United States Bistrict Court

SOUTHERN DISTRICT OF NEW YORK

76 Civ. 1699 (CHT)

PATRICK J. CUNNINGHAM,

Plaintiff,

against

BRONX COUNTY DEMOCRATIC EXECUTIVE COMMITTEE, NEW YORK STATE DEMOCRATIC COMMITTEE,

and

Louis J. Lefkowitz, Attorney General of the State of New York,

Defendants.

DATE

PROCEEDINGS

- 04-13-76 (1) Filed Complaint for Injunctive and Declaratory Relief and issued Summons.
- 04-13-76 (3) Filed Order to Show Cause for Preliminary Injunction & Temporary Restraining Order. Ordered pending hearing of motion for preliminary injunction the Bronx County Democratic Executive Committee, the NY State Democratic Committee and agents, etc. are temporarily restrained from taking any action, directly or indirectly by # 1, 2, & 3 as indicated. Ordered that this order expire within six (6) days

Docket Entries.

DATE

PROCEEDINGS

after entry unless within such time the order for good cause shown is extended or unless defts consent it may be extended for a longer period. Ordered pltff's motion for preliminary injunction set for 4/16/76 at 2:00 p.m., Room 1105; ordered that copies of order & supporting papers of memorandum of law personally served upon defts or attys by 4:00 P.M. on 4/13/76 shall be deemed good & sufficient service. Tenney, J (mn)

- 04-14-76 (6) Filed Order. Ordered that hearing of pending motion for preliminary injunction before said three judges shall be held at 2:15 p.m. on 4/19/76, Courtroom 1705, USCH, Foley Sq. NY. Three (3) copies of all briefs shall be submitted to chambers of Hon. Charles T. Tenney, Rm. 1904, no later than Noon, Friday, 4/16/76. Tenney, J.
- 04-19-76 (9) Filed Deft. Louis J. Lefkowitz, Atty Gen. of State of NY Memorandum (Pro Se) in support of the Constitutionality of NY Election Law, Sec. 22.
- O4-22-76 (10) Filed Mansfield, Circuit Judge (concurring):

 The Atty Gen's arguments might be persuasive, but in light of firmly settled Supreme Court case law on constitutional issue, I subscribe to Judge Tenney's clear-cut, carefully considered statement of what we hold & to Chief Judge Kaufman's further explication of what we do not hold, etc. Mansfield, U.S.C.J. (mn) (Opinion # 44286).

Docket Entries.

DATE

PROCEEDINGS

- 04-22-76 (11) Filed Kaufman, Chief Judge (concurring)
 Opinion # 44285. By our decision today
 we do not condone the abuse by any individual—however exalted his position may
 be—etc. Kaufman, Ch. Judge, USCA, 2nd
 Circuit (mn).
- 04-22-76 (12) Filed Opinion # 44284. (3 Judge Court)
 Pltff's claim for preliminary & permanent
 injunctive & declaratory relief is hereby
 granted. So ordered. Kaufman: Mansfield, Tenney, J. (mn).
- 04-26-76 (20) Filed Judgment. Ordered adjudged and Decreed that pltff have judgment against defts Bronx County Democratic Executive Committee, NY State Democratic Committee and Louis J. Lefkowitz, Atty Gen. of State of NY, permanently enjoining said defts from enforcing or applying subject statute as to pltff and declaring said statute to be unconstitutional. Clk (mn).
- 05-12-76 (22) Filed Transcript of Record of Proceedings dated 4/19/76.
- 06-21-76 (24) Filed Deft Louis J. Lefkowitz, Atty Gen. of State of NY Notice of Appeal to Supreme Court of U.S. from final judgment of three-judge court entered 04-26-76.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

Plaintiff, by his undersigned attorneys, for his complaint herein, alleges as follows:

- 1. This is a proceeding for a preliminary and permanent injunction and a declaratory judgment, restraining the enforcement, operation and execution of § 22 of the Election Law of the State of New York and declaring the unconstitutionality of the said statute as violative of the First, Fifth and Fourteenth Amendments to the Constitution of the United States and the invalidity of any action taken under the said statute with respect to the plaintiff.
- 2. Jurisdiction of the Court is invoked under 28 U.S.C. § 1343, this being a suit in equity under 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights, privileges and immunities secured by the Constitution of the United States; jurisdiction is further invoked under 28 U.S.C. § 2281, this being a suit for a preliminary and permanent injunction restraining the enforcement, operation and execution of § 22 of the New York Election Law, and requiring the convening of a three-judge district court; jurisdiction is further invoked under 28 U.S.C. § 2201, this being a suit for a declaratory judgment declaring the unconstitutionality of § 22 of the New York Election Law. The wrongs herein complained of have occurred or will occur in the Southern District of New York and each of the parties resides in or maintains an office for the transaction of business in the said District.
- 3. The plaintiff, Patrick J. Cunningham, a citizen of the United States and a citizen and resident of the State of

Complaint.

New York, is and at all relevant times has been both a member and the duly elected chairman of both the Bronx County Democratic Executive Committee and the New York State Democratic Committee. In each of his four said capacities, i.e., his two memberships and his two chairmanships, he is a party officer as defined by § 2 of the New York State Election Law.

- 4. On December 29, 1975, the plaintiff was subpoenaed to appear and testify before the Extraordinary Special Grand Jury for Bronx County. In connection with the said subpoena, Deputy Attorney General Maurice H. Nadjari, the prosecutor conducting the grand jury injuiry, conveyed a warning to the plaintiff that a refusal by the plaintiff to execute a waiver of immunity would bring into application against him the aforementioned § 22 of the New York Election Law resulting in the termination and vacation of his positions as party officer.
- 5. Plaintiff thereupon instituted in the Supreme Court of New York a proceeding to quash the said subpoena upon the ground, among others, upon which relief is sought in the instant action as hereinafter stated. Plaintiff's motion to quash the subpoena was denied by the Supreme Court of February 23, 1976. Upon plaintiff's successive appeals the said order of denial of plaintiff's motion was affirmed by the Appellate Division of the Supreme Court of New York on March 16, 1976, and by the New York Court of Appeals on April 1, 1976.
- 6. On April 12, 1976, in compliance with the aforesaid subpoena, the plaintiff did appear before the Extraordinary Special Grand Jury for Bronx County and, being then and there requested to execute a waiver of immunity from criminal prosecution, made an application to the Honorable Leonard Sandler, Judge of the New York Supreme Court for a stay of the Grand Jury proceeding for a time sufficient to file in the United States District Court for the

Southern District of New York a complaint seeking an injunction against the operation and enforcement against plaintiff of § 22 of the New York Election Law and a temporary restraining order pending decision on the merits. In lieu of the stay applied for, Judge Sandler, enjoined and restrained for one week the operation and enforcement against plaintiff of § 22 of the New York Election Law in order to give plaintiff an opportunity to proceed with his action in the United States District Court for the Southern District of New York, with the understanding that plaintiff would immediately return to the Grand Jury and there make his election with respect to the waiver of immunity requested of him. Plaintiff thereupon returned to the Grand Jury and then and there refused to execute the waiver of immunity and was thereafter not questioned.

7. Section 22 of the New York Election Law provides:

"If any party officer shall, after lawful notice or process, wilfully refuse or fail to appear before any court or judge, grand jury, legislative committee, officer, board or body authorized to conduct any hearing or inquiry concerning the conduct of his party office or the performance of his duties, or having appeared, shall refuse to testify or answer any relevant question, or shall refuse to sign a waiver of immunity against subsequent criminal prosecution, his term or tenure of office shall terminate, such office shall be vacant and he shall be disqualified from holding any party or public office for a period of five years."

8. The defendants Bronx County Democratic Executive Committee and New York State Democratic Committee are political party entities organized and existing under §§ 11 and 12 of the New York Election Law and, as such, are suable entities under New York Law.

Complaint.

9. Each of the said two Committees, in the event of the disqualification or removal of any member, is charged by § 17 of the New York Election Law with the duty to fill the said vacancy as therein provided. Each of the said two Committees, moreover, is charged by § 15 of the New York Election Law with the responsibility of electing its chairman.

10. The effect of § 22 of the New York Election Law, if it is allowed to operate and be enforced, is automatically and by operation of law, to have terminated plaintiff's tenure of his four party offices, vacated the said offices, and disqualified plaintiff for five years from occupying any of them or any other party office or any public office. In such event, unless the Court enjoins such action, the two defendant Committees will treat plaintiff's respective memberships and chairmanships to have been terminated by operation of law and will immediately proceed to replace him in his four party offices. Moreover, plaintiff's chairmanship of the Bronx County Democratic Executive Committee, expires on April 20, 1976, and plaintiff intends to run for said office; and plaintiff's chairmanship of the New York State Democratic Committee expires on April 23, 1976 and plaintiff intends to run for re-election to that office. Accordingly, unless this Court enjoins the operation against plaintiff of § 22 of the New York Election Law, the said section will be urged as disqualifying plaintiff from reelection to either or both of said offices.

11. Defendant Louis J. Lefkowitz is the Attorney General of the State of New York and the superior officer to Deputy Attorney General Nadjari who, as alleged in paragraph 4 hereof, had warned the plaintiff of the application against him of § 22 of the New York Election Law if he should refuse to waive immunity. The defendant Lefkowitz, as Attorney General, is charged with the responsibility for any action to be taken by or on behalf

of the State of New York to enforce § 22 of the New York Election Law and to prevent the plaintiff from continuing to function in his party offices, including the bringing against the plaintiff of any action in the nature of quo warranto or the bringing against the defendant Committees of any action to compel their compliance with their obligations under the provisions of the New York Election Law.

- 12. The plaintiff's occupancy of each of his four party offices is a proper and valid exercise by him of a right secured to him by the First Amendment to the Constitution of the United States.
- 13. The plaintiff's refusal to waive his immunity from criminal prosecution is a proper and valid exercise of his privilege secured to him by the Fifth Amendment to the Constitution of the United States as made applicable to the states by the Fourteenth Amendment to the Constitution of the United States.
- 14. Section 22 of the New York Election Law, insofar as it terminates plaintiff's party offices and disqualifies him from holding political party or public office as a sanction for having exercised his privilege against self-incrimination, violates the First, Fifth and Fourteenth Amendments to the Constitution of the United States and, since it purports to be automatic in its operation, causes plaintiff immediate and irreparable harm for which he has no adequate remedy at law. The said statute should, therefore, be held unconstitutional and of no force and effect against the plaintiff and any action taken thereunder against the plaintiff should be held null and void.
- 15. Any act taken by any of the defendants or by any persons in concert with them, in reliance upon § 22 of the New York Election Law, to interfere in any way with the plaintiff's occupancy of any of his positions as a party

Complaint.

officer, would irreparably injure him in the enjoyment of his right to freedom of political association under the First Amendment to the Constitution of the United States and would also invade the similar rights of all enrolled Democratic voters in Bronx County and New York respectively. The plaintiff has no adequate remedy at law to right such wrongs. The Court should, therefore, enjoin any such interference.

Wherefore, plaintiff respectfully prays that:

- (1) Upon the filing of this complaint, the Court, as may appear proper and convenient:
 - (a) Issue such process upon the defendants as required by law;
 - (b) Issue a temporary restraining order, restraining the defendants, their agents, employees and successors, and all persons acting in concert with any of them from enforcing the provisions of § 22 of the New York Election Law and from interfering in any way, directly or indirectly, on the basis of any provision of said statute, with plaintiff's tenure in office as a member and as chairman of the Bronx County Democratic Executive Committee and the New York State Democratic Committee;
 - (c) Convene a Three Judge District Court as required by 28 U.S.C. §§ 2281 and 2284;
 - (d) Advance this action on the docket and order a speedy hearing of the action according to law;
- (2) After hearing the parties, the Court issue a temporary injunction enjoining the defendants, their agents, employees and successors, and all persons acting in concert with any of them, pending trial of this action, from enforcing the provisions of § 22 of the New York Election

Law and from interfering in any way, directly or indirectly, on the basis of any provision of said statute, with plaintiff's tenure in office as a member and as chairman of the Bronx County Democratic Executive Committee and the New York State Democratic Committee;

- (3) After trial of the action, the Court:
- (a) Enter a judgment declaring that § 22 of the New York Election Law is void as repugnant to the First, Fifth and Fourteenth Amendments to the Constitution of the United States;
- (b) Issue a decree making the preliminary injunction permanent;
- (c) Allow plaintiff his costs herein; and
- (d) Grant such other and further relief as it may deem proper.

WILLIAMS, CONNOLLY & CALIFANO

By Edward Bennett Williams, per H. U Edward Bennett Williams

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Attorneys for the Plaintiff

(Affidavit of Verification omitted in Printing.)

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

(3) Judge Kaufman: Good afternoon, gentlemen.

We will hear argument in Patrick J. Cunningham against Bronx County Democratic Executive Committee, et al.

Mr. Williams: May I proceed, if the Court please?

Judge Kaufman: Yes. I think it would be a good idea
for us to agree first that, since this is an application
for a temporary injunction, we might as well hear it on
the merits of the case.

Mr. Williams: Yes, sir.

Judge Kaufman: Does everyone agree to that pursuant to Rule 65? So that we will have that entered on the record.

I think one or two other stipulations are in order, so that we don't have to take any testimony in this case.

Can we agree that the facts alleged in the complaint, paragraphs 3, 4, 5, 6, and 11, are stipulated?

Mr. Galt: May I be heard a moment, your Honor?

Judge Kaufman: Yes.

Mr. Galt: In essence—

Judge Kaufman: You are Mr. Galt?

Mr. Galt: Mr. Galt, Attorney General's Office.

In essence, we don't take exception to these facts nor refuse to stipulate to them, but there are several nuances that we do not even know about. For example, "In (4) connection with the said subpoena"—and I am reading from paragraph 4—"Deputy Attorney General Maurice H.

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

Nadjari, the prosecutor conducting the grand jury inquiry, conveyed a warning to the plaintiff that a refusal by the plaintiff to execute a waiver of immunity would bring into application against him," etc.

It would seem to me that without in any way diminishing the plaintiff's case, that could be stated otherwise. I cannot know for a fact that it took place this way. And there may be connotations resting on that other than for purposes of arguing the merits of this case. It may have to do with the Special Prosecutor's conduct of his proceeding that I would not want to prejudice. At the same time I am most anxious to cooperate as much as possible with the Court. But I don't want to swallow all of these allegations wholesale.

Judge Kaufman: Mr. Galt, can you agree, then, for the purpose of this case and this hearing, that you will stipulate to that and limit it to that purpose only?

Mr. Galt: May I have one moment, your Honor? Judge Kaufman: Yes.

(Pause.)

Mr. Galt: What that would imply I am not quite sure, your Honor, because I understand that it is the Special (5) Prosecutor's position that he did not issue such a warning.

It would seem to me that, since we are concerned here with the question of whether the statute itself exerts coercion upon the plaintiff, this allegation would be superfluous in any event.

Is there any need, in other words, to denominate just how this brought the matter into focus? I think it would suffice to say, if I may respectfully suggest it to the Court—and Mr. Williams I don't think would object if I put it this way—it would suffice to say that there came a point on April 12, I believe was the date, at which a

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

waiver of immunity was requested and not signed. And we know that there exists Section 22 of the Election Law. Would it be necessary in anywise to your Honor's disposition of the case to have this refined detail of fact which might have consequences that I cannot foresee at the moment?

Judge Kaufman: The only thought that occurs to me is that they are asking for a temporary injunction, and the implication of an application for a temporary injunction is that somebody has said he is going to do something, unless there is a temporary injunction. I don't understand that there is any problem. Mr. Williams, do you want to say anything?

Mr. Williams: I may have a helpful suggestion. (6)

I hope so, your Honor.

There is on file in the record here an affidavit from Mr. Perrin, who was counsel for Mr. Cunningham. Paragraph 5 of that affidavit recites in one sentence the following: "Your deponent was advised, however, that the inquiry would cover the plaintiff's conduct of his political party offices, thereby involving application of Section 22."

Mr. Galt: I think, Mr. Williams, this is along the line that I had suggested, and both Mr. Williams and I seem to be in agreement that this would suffice to present the matter to the Court, without going into the further references to the precise kind of statements or suggestions that may or may not have been made by the Special Prosecutor.

Judge Kaufman: We will accept that suggestion. That is all right.

One other fact I think we ought to have on the record. Is Mr. Cunningham a lawyer?

Mr. Williams: Yes, he is, your Honor.
Judge Kaufman: Is that agreed?
Mr. Williams: Yes, that is conceded.

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

Judge Kaufman: It is conceded.

Mr. Williams: Your Honor, as far as the plaintiff and moving party is concerned, I can say that I have looked at all the factual allegations recited in all the pleadings (7) here, and I don't think there are any that can be controverted. I think the recitation of facts here by all parties is accurate, and we certainly accept all those facts as being true for the purposes of the application which we make to the Court.

Judge Kaufman: We suggested specifically, and I don't know whether it got to you, that you stipulate—I want to get out of this file Mr. Lefkowitz's brief—page 8, the first two sentences.

Mr. Williams: Yes, sir. We do stipulate to that, your Honor, and I might say that I saw that annexed to the brief filed at the invitation of the Court by the American Civil Liberties Union. They are the Rules of the Democratic Party for the State of New York and they are in all respects accurate, and we so stipulate.

Judge Kaufman: Very well. Proceed.

Mr. Galt: Your Honor, may I interrupt for just one moment to carry this thought one step further.

There are further suggestions here about what happened before Judge Sandler. These are facts which we could not know about to stipulate. I understand there was a stay such as the plaintiff describes. But the other events that are associated with it we do not—

Judge Kaufman: What are you referring to?

(8) Mr. Galt: Oh, for instance, paragraph 6. I don't know that that is critical to the case in any event, whether Judge Sandler did or did not issue a TRO. There has been no question of any consequence had the TRO not been issued by him at that time. And then that was subsumed by Judge Tenney's TRO issued Wednesday. Things of this nature we are not conceding—

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

Judge Kaufman: Things of this nature may be necesary in order for us to be able to decide this intelligently, particularly on jurisdiction. It is here, and it is a very simple thing, and I would not want either side to make that about it, because it is insignificant.

If you find really that is terribly disturbing to you, to be able to say that Judge Sandler enjoined and restrained him for one week, I must say it is beyond my comprehension.

Mr. Galt: Your Honor, I am not objecting to that. I would concede that, even though I didn't know it to be a fact, because it is of no particular consequence, and I am anxious for your Honor to be able to have the matter before him. I merely pointed out that there are some statements in here of matters that took place and we could not possibly know the fact with respect to them. We do not conduct the operations of the Special Prosecutor's Office.

(9) Can we have a stipulation from Mr. Williams as to the nature of the inquiry conducted by the Special Prosecutor, so that there will be no question that it comes within the orbit of the statute if the statute is constitutional?

Mr. Williams: I am not quite sure what I am being asked to do, your Honor, but I do agree that Section 22 is applicable. I do agree that there was intended to be made an inquiry into the witness' conduct of his duties as a party officer, if that is what counsel is asking me to do. We said that in our moving papers, we said it in a supporting affidavit, and I repeat it.

Mr. Schweitzer: Your Honor, if it please the Court, in paragraph 3—

Judge Kaufman: Wait a minute. Identify yourself.

Mr. Schweitzer: My name is Melvin Schweitzer, your Honor, counsel to the New York State Democratic Committee. In paragraph 3, just for purposes of clarification—

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

I don't think it will bear on it—I don't think Mr. Cunningham is a member of the New York State Democratic Committee. I believe he is a member of its Executive Committee and Chairman of the State Committee, but not actually a member of the State Committee.

Judge Kaufman: In other words, he has been both (10) a member and an elected chairman.

Mr. Schweitzer: He is a member of the Executive Committee and Chairman.

Judge Kaufman: And is he both a member and Chairman of the Bronx County Democratic Committee?

Mr. Schweitzer: As to the Bronx-

Mr. Raucher: Your Honor, my name is David Raucher. I am counsel to the Bronx County Democratic Committee.

Judge Kaufman: Yes. Is he a member and duly elected Chairman?

Mr. Raucher: He is duly elected Chairman and member of the Executive Committee, which is a defendant in this lawsuit. I think, insofar as the State Committee is concerned, it was the committee itself, the State Committee, rather than the State Committee's Executive Committee—

Judge Kaufman: He is Chairman of the State Committee?

Mr. Schweitzer: Chairman of the State Committee, yes, and member of the Executive Committee but not a member of the committee itself.

Mr. Galt: Your Honor, I take this from papers that were before this; I think this is part of the opinion (11) of Judge Sandler on another phase of the case. I would ask Mr. Williams to stipulate that the grand jury before whom the plaintiff was requested to testify after signing a waiver of immunity is primarily concerned with an investigation into allegations of criminal acts affecting and relating to nominations for judicial office.

Transcript of Record of Proceedings Dated April 19, 1976, pp. 3-12 (omitting pp. 1-2 and 13-64).

Judge Kaufman: All right, Mr. Williams. Mr. Williams: May I proceed, your Honor?

Judge Kaufman: You may proceed. Do you want to

respond first?

Mr. Williams: Well, your Honor, I can answer that. The fact of the matter is that the jurisdiction of the Deputy Attorney General, at his request, was extended to inquire, in the area of the Bronx, as to the conduct of the Chairman of the Bronx County Democratic Committee in his political office as Chairman. So that it was broader than simply looking into criminal conduct; it was a broader and more sweeping inquiry than that.

But I don't think we are dealing with things that are material to the issues that are before the Court at the moment, your Honor. I really don't. There is no question about the fact that Cunningham—

Judge Kaufman: I don't think there is anything in the stipulations that I requested that dealt with the (12) so-called merits of the investigation or the substance of the investigation.

Mr. Williams: That is correct.

Judge Kaufman: We are dealing in the main with jurisdictional questions, and some of that may have been a little superfluous. At any rate, let us proceed.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

February, 1976

RULES
OF THE
DEMOCRATIC PARTY OF THE STATE OF
NEW YORK

Preamble: The purpose of these rules is to inspire and encourage the greatest number of Democrats to participate in the affairs of the Democratic Party of the State of New York to insure the continuing success of the Democratic Party, and to provide the best possible responsible government for the people of the State of New York.

The Democratic State Committee of the State of New York hereby adopts the following rules for the government of the Democratic Party of the State of New York.

ARTICLE I

General Provisions

- Section 1. (a) The basis of the organization of the Democratic Party of the State of New York shall be the duly enrolled Democrats in every Election District within the State.
- (b) The State Committee shall be the official organization of the Democratic Party of the State of New

Rules of the Democratic Party of the State of New York.

York. It shall possess such powers and perform such duties as may be fixed by statute or prescribed by these rules.

- (c)(1) All public meetings at all levels of the Democratic Party of New York are open to all members of the Democratic Party of New York regardless of race, sex, age, color, creed, national origin, religion, ethnic identity, economic status or philosophical persuasion.
- (2) No test for membership in, nor any oath of loyalty to, the Democratic Party of New York shall be required or used that has the effect of requiring prospective or current members of the Democratic Party to acquiesce in, condone, or support discrimination on the grounds of race, sex, age, color, creed, national origin, religion, ethnic identity or ecomonic status.
- (3) The time and place for all public meetings of the Democratic Party of New York on all levels shall be publicized fully and in such manner as to assure timely notice to all interested persons. Such meetings shall be held in places accessible to all Party members and large enough to accommodate all interested persons.
- (4) The Democratic Party, on all levels, shall support the broadest possible registration without discrimination on grounds of race, sex, age, color, creed, national origin, religion, ethnic identity or economic status.
- (5) The Democratic Party of New York shall publicize fully and in such manner as to assure notice to all interested parties a full description of the legal and practical procedures for selection of the Party's officers and representatives on all levels. Publication of these procedures shall be made in such fashion that all prospective and current members of the Party in the State of New York will be fully and adequately informed of the perti-

nent procedures in time to participate in each selection procedure at all levels of the Party's organization.

(6) The responsible officers of the Democratic Party of New York shall publicize fully and in such manner as to assure notice to all interested parties a complete description of the legal and practical qualifications for all officers and representatives of the Democratic Party of the State of New York. Such publication shall be effected in timely fashion so that all prospective candidates or applicants for any elected or appointed position within the Party will have full and adequate opportunity to compete for office.

Section 2. The structure of the Party shall be as follows:

- (a) The unit of representation of the State Committee shall be the Assembly District from which the members of the State Committee shall be elected and, except upon the vote for the designation of candidates for any office to be filled by the voters of the entire state, each Assembly District shall be entitled to two votes.
- (1) In each Assembly District which comprises a whole county or is entirely within a county there shall be elected two members of the State Committee, each of whom shall have one vote.
- (2) In each Assembly District which promises [sic] two or more whole counties, two members shall be elected from each whole county, and each member so elected to cast a proportionate part of the two votes to which the Assembly District is entitled.
- (3) In each Assembly District which comprises one or more whole counties and one or more parts of counties, each whole county shall be entitled to

Rules of the Democratic Party of the State of New York.

elect two members and part of a county shall be entitled to elect one member, and the members so elected shall be entitled to cast a proportionate share of the two votes to which the Assembly District is entitled.

- (4) In each Assembly District which comprises only parts of two or more counties and no whole county or counties, each such part of a county shall be entitled to elect one member, except that if any such part of a county cast 75% or more of the total Democratic vote for Governor in the Assembly District, such part shall be entitled to elect two members. The members representing the parts of two or more counties and no whole county or counties shall cast the proportionate share of the vote to which the Assembly District is entitled.
- (5) In cases where provision is made above for the election of two members, one shall be a male and the other a female.
- under the foregoing provisions of this Section 2 (a) shall be that portion of the two votes to which the Assembly District is entitled which is represented by a fraction, of which the numerator is the total vote cast for the Democratic candidate for Governor at the last election for that office in that portion of the Assembly District from which the member was elected and the denominator of which shall be the total vote cast at such election for the office of Governor in the entire Assembly District, to the nearest tenth. Where a portion of an Assembly District, from which the member was elected is represented by two members, each member shall be entitled to cast one-half of the vote to which such portion of the Assembly District is entitled.
- (b) The County Committees in each county shall be constituted by the election in each Election

District within such county of at least two members and such additional members not in excess of two (2) as the rules of the County Committee within the county or the statements filed pursuant to section eighteen of the Election Law may provide for such district proportional to the party vote in the district for Governor of the past preceding gubernatorial election, pursuant to statute.

- (c) District Committees in and for each of the other political subdivisions of the State other than towns, villages, and school districts.
- (i) Where a political subdivision is coterminous with or less than the limits of, but wholly within, one county, the members of the County Committee from such political subdivision shall constitute the committee in and for such political subdivision.
- (ii) If a political subdivision consists of more than one county, the District Committee for such subdivision shall be composed of the Chairmen of the County Committees of the various counties, or parts of counties, situated within the political subdivisions.
- Section 3. National Convention Delegates and Alternates
- (a) District Delegates and District Alternates Elected in Spring Primary
- (1) Number and Appointment. A number of district delegates, with one vote each, equal to seventy-five percent (75%) of the number of votes at the Democratic national Convention allotted to New York State and a number of district alternates equal to seventy-five percent (75%) of the number of alternates allotted to New York State, shall be elected from the Congressional Districts within the State at the Spring Primary Election to

Rules of the Democratic Party of the State of New York.

be held pursuant to New York Election Law Section 21. The number of district delegates and district alternates to be elected from each Congressional District shall be allotted to such district according to the formula provided in Rule 9. A. (1) of the 1976 Delegate Selection Rules: a formula giving equal weight to total population and to the average of the vote for the Democratic candidates in the two most recent presidential elections as follows:

(i) The number of votes cast for the Democratic presidential candidate in 1972 on the Democratic line in each of the thirty-nine (39) New York State Congressional Districts shall be added together with the number of votes cast for the Democratic presidential candidate in 1968 on the Democratic line in each such Congressional District, and the total shall be divided by two, establishing the average presidential vote for each Congressional District; the total number of votes cast for the Democratic presidential candidate in 1972 in all of the thirty-nine (39) New York State Congressional Districts shall be added together with the total number of votes cast for the Democratic presidential candidate in 1968 on the Democratic line in all of the thirty-nine (39) New York State Congressional Districts, and the total shall be divided by two (2), establishing the average presidential vote for New York State; the average presidential vote for each Congressional District shall be divided by the average presidential vote for New York State, the result constituting an "average presidential vote formula number" for each Congressional District.

(ii) the population figures according to the 1970 census for each Congressional District shall be divided by the population figures according to the 1970 census for New York State: the result constituting a "population formula number" for each Congressional District.

(iii) the average presidential formula number for each Congressional District shall be added to the population formula number for each Congressional District and the total for each Congressional District shall then be divided by two (2): the result constituting a "formula percentage" for each Congressional District consisting of a whole number and a fractional percentage remainder carried to three (3) decimal places.

(iv) the formula percentage for each Congressional District shall be divided into seventy-five percent (75%) of the number of delegates and alternates respectively that have been allotted to New York State.

(v) The basic allotment of respective delegates and alternates allotted to each Congressional District shall be the respective whole number derived from the computation in subparagraph (i) hereof, ignoring the fractional percentage remainder.

(vi) if the respective totals of delegates or alternates, as the case may be, derived from the computations in subparagraphs (i) through (v) hereof do not equal seventy-five percent (75%) of the respective delegates and alternates allotted to New York State, then any remaining delegates or alternates, as the case may be, up to seventy-five percent (75%) shall be allotted one at a time to those Congressional Districts with the highest respective fractional percentage remainder.

(2) Declaring Presidential Preference or Uncommitted Status. Each person who files a petition for district delegate or district alternate with the officer or board with whom or which such petition is required to be filed shall file with the Secretary of the State Committee not later than the last day for filing such petition pursuant to the New York Election Law, a sworn nota-

Rules of the Democratic Party of the State of New York.

rized statement which shall indicate that he or she is uncommitted, or that he or she supports a specifically named individual who is a candidate for nomination to the office of President of the United States (hereinafter referred to as a "presidential candidate"). For any person who files a sworn notarized statment that he or she supports a presidential candidate, there also shall be filed with the Secretary of the State Committee not later than seven days after the last day for the filing of petitions pursuant to the New York Election Law, a certificate signed by such presidential candidate or by an agent authorized in writing by such presidential candidate, such written authorization to be simultaneously filed, attesting to the fact that such presidential candidate agrees that at the Spring Primary the candidate for district delegate or district alternate shall be identified as supporting that presidential candidate.

(3) Obtaining Approval of Presidential Candidates. Persons desiring to be candidates for district delegate or district alternate identified as supporting a presidential candidate, or who wish to recommend the names of such persons (necessitating compliance with the provisions of Paragraph 2 hereof) may send the name, address and a brief biographical sketch of each proposed candidate for district delegate or district alternate, together with the name of the presidential candidate with which the person desires to be identified, to either the New York representative of the presidential candidate, or to the Secretary of the State Committee, addressed to a special Post Office Box which shall be established by the State Committee for this purpose. The Secretary of the State Committee shall forward to the appropriate New York representative of each presidential candidate all names received by the State Committee. A presidential candidate

shall have the right to require a person filing a designating petition for district delegate or district alternate to sign a sworn statement of support before the presidential candidate files a certificate with the Secretary of the State Committee pursuant to the provisions of Paragraph 2 hereof.

(4) Publicizing Presidential Preference or Uncommitted Status. The New York Democratic Party shall undertake to publicize to all eligible Democratic voters the presidential preference or uncommitted status of each candidate for district delegate or district alternate by (i) sending press releases to newspapers and mass and local media outlets throughout New York State, (ii) distributing public service announcements and/or tapes to such mass and local media outlets, and (iii) mailing lists containing this information to all target constituent Democratic groups listed in the appendices to the Affirmative Action Plan of the New York State Democratic Party, as supplemented. Any candidate for district delegate or district alternate for whom a certificate has not been filed pursuant to Paragraph 2 hereof but who files a sworn, notarized statement that he or she supports a presidential candidate shall be publicized as follows: "The following persons have met all state law requirements to appear on the ballot as candidates for district delegate or district alternate. They have not fulfilled Democratic Party requirements to be committed to a presidential candidate or to be uncommitted." Nothing herein shall be deemed to require the use of any paid advertising by the New York State Democratic Party or to require the Party to engage in any conduct contrary to the provisions of New York Election Law Section 19.

(5) Binding Support of Presidential Candidates. All district delegates and district alternates who

Rules of the Democratic Party of the State of New York.

have been elected as supporting a presidential candidate pursuant to Paragraph 2 hereof shall vote for that presidential candidate on the first ballot at the Democratic National Convention unless such presidential candidate shall have earlier withdrawn from such presidential candidate shall have earlier withdrawn from such presidential candidacy or otherwise publicly released such delegates or alternates, or specifically released any individual district delegate or district alternate in writing.

(b) Delegates-at-large and Alternates-at-

large.

(1) Number and Apportionment. In order to encourage the selection of a New York State delegation to the Democratic National Convention which includes public officials, party officials and members of traditionally underrepresented Democratic constituencies, the New York State Democratic Committee shall elect from the State at-large a number of delegates, with one vote each, equal to twenty-five percent (25%) of the number of votes at the Democratic National Convention allotted to New York State, and a number of alternates equal to twenty-five percent (25%) of the number of alternates allotted to New York State. This election shall take place at a meeting of the State Committee called for that purpose on ten (10) days notice after the Spring Primary. but no later than forty (40) days following Spring Primary Election.

(2) Reflecting the Division of Presidential Preference and Uncommitted Status. The election of at-large delegates and at-large alternates respectively by the New York State Democratic Committee shall fairly reflect the division of presidential preference and uncommitted status of the respective district delegates and district alternates elected in the Spring Primary as follows:

(i) the respective percentage of atlarge delegates or at-large alternates, as the case may be, that is allocated to each presidential candidate or to uncommitted status shall be the same as, or nearly equal to the respective statewide percentage of district delegates or district alternates, as the case may be, that has been elected at the Spring Primary as authorized supporters of such presidential candidate or as being uncommitted.

(ii) in the event that a presidential candidate supported by elected district delegates and/or district alternates, as the case may be, withdraws from such presidential candidacy on or before the date of the State Committee meeting, the expressed presidential preference or uncommitted status, as the case may be of such district delegates and/or district alternates at the time of the State Committee meeting shall be counted in computing the respective statewide percentage of district delegates or district alternates as the case may be for the purpose of allocating the respective percentage of at-large delegates and at-large alternates. District delegates and/or district alternates desiring to be uncommitted or identified as supporting a different presidential candidate pursuant to this subparagraph shall file with the Secretary of the State Committee on or before the date of the State Committee meeting a sworn, notarized statement which shall indicate that he or she is uncommitted, or that he or she supports a different presidential candidate. For any district delegate or district alternate who files a sworn, notarized statement that he or she supports a different presidential candidate there also shall be filed with the Secretary of the State Committee on or before the meeting a certificate signed by such presidential candidate or by an agent authorized by such presidential candidate in writing, such written authorization to be simultaneously filed.

Rules of the Democratic Party of the State of New York.

attesting to the fact that such presidential candidate agrees that the district delegate or district alternate shall be identified as supporting that presidential candidate. A presidential candidate shall have the right to require a district delegate or district alternate to sign a sworn statement of support before the presidential candidate files a certificate with the Secretary of the State Committee pursuant to this subparagraph. A district delegate or district alternate who desires to be identified as supporting a different presidential candidate pursuant to this subparagraph, but who fails to file a certificate signed by such presidential candidate or by an agent authorized by such presidential candidate shall not be counted in computing the respective statewide percentage of district delegates or district alternates, as the case may be, for the purpose of allocating the percentage of at-large delegates and atlarge alternates pursuant to this subparagraph. The provisions of paragraph (a) (5) hereof with respect to the binding support of presidential candidates shall apply to all district delegates and district alternates identified as supporting a different presidential candidate pursuant to this subparagraph.

Delegate and at-large Alternate Positions. Persons desiring to be at-large delegates or at-large alternates, or who wish to recommend the names of such persons shall submit to the Secretary of the State Committee, addressed to a special Post Office Box which shall be established by the State Committee for this purpose, the name, address and a brief biographical sketch of each proposed at-large delegate or at-large alternate, together with the name of the presidential candidate supported by the proposed at-large delegate or at-large alternate, or a statement that the proposed at-large delegate or at-large alternate is uncom-

mitted. Each presidential candidate or an agent authorized in writing by such presidential candidate shall have the right to approve any proposed at-large delegate and at-large alternate supporting that presidential candidate. A presidential candidate shall have the right to require a person seeking to be elected as an at-large delegate or at-large alternate to sign a sworn statement of support before that presidential candidate approves such person. In electing at-large delegates and at-large alternates who are either supporting a presidential candidate or who are uncommitted, the State Committee shall not be limited to names that were received by the Secretary of the State Committee pursuant to this Paragraph.

- (4) Binding Support of Presidential Candidates. All at-large delegates and at-large alternates who have been elected by the State Committee as supporting a presidential candidate pursuant to Paragraph 2 hereof shall vote for that presidential candidate on the first ballot at the Democratic National Convention, unless such presidential candidate shall have earlier withdrawn from such presidential candidacy or otherwise publicly released such delegates or alternates, or specifically released any individual at-large delegate or at-large alternate in writing.
- (5) Rules and Procedures Governing State Committee Election of at-large Delegates and at-large Alternates. The New York State Democratic Committee shall be governed by the following rules and procedures in its election of at-large delegates and at-large alternates:
- (i) Forty percent (40%) of the members of the State Committee present in person shall constitute a quorum. Less than a quorum may adjourn the meeting, and notice of adjournment shall be given in the same manner as notice of the meeting.

Rules of the Democratic Party of the State of New York.

(ii) The members of the State Committee in each Assembly District shall vote on a basis of Democratic voting strength in the same manner as is provided for the designation of candidates for officers to be filled by the votes of the entire State pursuant to Section 6(c) of this Article.

(iii) The use of proxies at the State Committee meeting shall be limited as follows: a duly accredited State Committee member, after having personally appeared at the meeting at which at-large delegates and at-large alternates are to be elected, and after having established his or her credentials as a member of the State Committee, may designate in writing another member of the State Committee who is to vote a proxy at the meeting, provided that no member of the State Committee may hold more than three (3) proxies at a time. A four-member committee comprised of duly elected members of the State Committee shall be appointed to serve as a credentials committee to assure that the provisions of this subparagraph regarding the use of proxies are adhered to.

(c) Replacement of Delegates by Alter-

nates.

- (1) A delegate shall be replaced by an alternate at the Democratic National Conventional as follows:
- (i) A delegate who is to be absent or who resigns shall select from among the alternates of his or her Congressional District, if possible, or from another Congressional District or the State at-large the particular alternate of the same presidential preference or uncommitted status, as the case may be of the delegate being replaced. If there is no district alternate or atlarge alternate of the same presidential preference or uncommitted status, as the case may be, as the delegate

being replaced, the delegate who is to be absent or who resigns shall select an alternate from among alternates of his or her Congressional District, if possible, or from another Congressional District or the State at-large.

(ii) If due to death or disability a delegate is unable to select the alternate to take his or her place, that selection shall be made by the New York State Delegation in a manner which shall assure that such alternate will be of the same presidential preference or uncommitted status, as the case may be, from the same Congressional District as the delegate being replaced, if possible, or from another Congressional District or the State atlarge. If there is no district alternate or at-large alternate of the same presidential preference or uncommitted status, as the case may be, as the delegate being replaced, the members of the New York State Delegation of the same presidential preference or uncommitted status, as the case may be, shall meet in caucus duly assembled to select an alternate from among the alternates from the same Congressional District as the delegate being replaced, if possible, or from another Congressional District or the State at-large.

(2) An alternate shall be utilized in place of a delegate in accordance with such additional procedures not inconsistent with this Paragraph as may be adopted by the New York State Delegation in caucus duly assembled.

(d) Filling Alternate Vacancies

A vacant alternate position shall be filled by the New York State Delegation and the replacement shall be of the same presidential preference or uncommitted status, as the case may be, and, where applicable and if possible, from the same Congressional District as the alternate being replaced.

Rules of the Democratic Party of the State of New York.

(e) Unit Rule Prohibited

The unit rule, or any other rule or practice whereby all members of a party unit or delegation are required to cast their votes in accordance with the will of the majority of the body, shall not be used at any stage of the delegate selection process.

(f) Rules of the New York Delegation.

The New York Delegation to the 1976 Democratic National Convention shall make any additional rules necessary for the conduct of its business.

(g) Automatic Delegates Prohibited

No person shall serve as an automatic or ex officio voting delegate at any level of the delegate selection process by virtue of holding a public or party office.

(h) Slate Making

Any individual or group of Democrats may sponsor or endorse a slate of candidates for convention delegates. But no slate may, by virtue of such endorsement, receive preferential treatment or a preferential place on a delegate selection ballot or be publicly identified on the ballot as the "official" slate, and all slates must meet identical qualifying requirements for appearing on a ballot at all levels of the delegate selection process.

(i) Effect of Laws and Party Rules on

Voting.

No delegate at any level of the delegate selection process shall be mandated by law or party rule to vote contrary to the individual's expressed presidential choice.

(j) Registration.

The Democratic Party of the State of New York shall take all feasible steps to encourage nonaffiliated and new voters to register or enroll as Democrats and to provide simple, easy procedures through which they may do so.

(k) Non-discrimination.

In order that the Democratic Party of the State of New York at all levels be an open party which includes rather than excludes people from participating, a program of effective affirmative action is hereby adopted. Discrimination on the basis of race, sex, age, color, national origin, religion, ethnic identity, or economic status in the conduct of the affairs of the Democratic Party of the State of New York is prohibited.

Section 4. State and Judicial District Convention Delegates.

Delegates and Alternate Delegates to a State Convention and to the Judicial District Conventions for the nomination of Party candidates for the office of Justice of the State Supreme Court, shall be chosen by the election of such Delegates and Alternate Delegates from each Assembly District in the State as follows:

One Delegate and one Alternate delegate from each Assembly District in the State, and one additional Delegate and one additional Alternate Delegate from each Assembly District in the State for each two thousand five hundred votes or fraction of two thousand five hundred votes cast on the Democratic line in such Assembly District for the Party candidate for Governor at the last preceding general State Election.

Rules of the Democratic Party of the State of New York.

Section 5. Nomination of National Committeeman and National Committeewoman.

At the organization meeting of the State Committee, in a year in which a presidential election is held, the State Committee shall elect a nominee to serve as National Committeeman and a nominee to serve as National Committeewoman, upon their confirmation by the Democratic National Convention held in that year. Election of such nominees shall be made in the manner provided for the designation of candidates for office to be filled by the voters of the entire State, as set forth in paragraph (c) of Section 6 of this Article.

Section 6. Nominations other than by Convention.

- (a) Nominations for an office to be filled at a special election shall be made, if for an office to be filled by the voters of the entire state by the State Committee, if for a county office by the County Committee, and if for an office in any of the other political subdivisions of the State by the District Committee thereof, or where wholly within a county, in such other manner as the rules of the County Committee shall provide.
- (b) Nominations to fill vacancies to be filled other than at a special election shall be made as provided by statute, or if not provided for by statute, as herein provided or a special election.
- (c) At a meeting of the State Committee for the designation of candidates for any office to be filled by the voters of the entire state, in voting for the designation of such candidates the State Committeemen, in each Assembly District shall cast in the aggregate a number of votes equal to the number of votes cast for the Party candidate for Governor on the Democratic line or column at

the last preceding General State Election ("the last gubernatorial vote") in such Assembly District, and the vote to which each State Committeeman in such Assembly District is entitled shall be as follows:

- (1) In each Assembly District which comprises a whole county or is entirely within a county each State Committeeman elected therefrom shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such Assembly District.
- (2) In each Assembly District which comprises two or more whole counties each of the State Committeemen elected from such a county shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such Assembly District.
- (3) In each Assembly District which comprises one or more whole counties and one or more parts of counties, each of the State Committeemen elected from such a whole county shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such county and the State Committeeman elected from such part of a county shall cast a number of votes equal to the last gubernatorial vote.
- (4) In each Assembly District which comprises only parts of two or more counties and no whole county or counties, each State Committeeman elected from such a part of a county shall cast a number of votes equal to the last Democratic gubernatorial vote cast in such part of a county (except that if any such part of a county is entitled to two State Committee members, each such member shall cast one-half of the number of such Democratic votes cast in such part of a county).

Rules of the Democratic Party of the State of New York.

ARTICLE II

THE STATE COMMITTEE

Section 1. Organization. The members of the State Committee shall meet within fifteen (15) days after their election. They shall organize at such meeting by the election of the following persons: Chairman, five Vice-Chairmen, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary and Sergeant-at-arms, none of whom need be members of the State Committee. Three of the five Vice-Chairmen, the Assistant Treasurer, and Assistant Secretary shall be of the opposite sex from the Chairman, the Treasurer and Secretary, respectively. If the office of a Vice-Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, or Sergeant-at-arms, becomes vacant for any reason, the Chairman may fill such vacancy by appointment, and the person so appointed shall hold office until the vacancy shall be filled as provided in Section 13 of this Article.

Section 2. Standing Committees. There shall be the following standing committees of the State Committee: Executive Committee, Finance Committee, Law Committee, Campaign Committee, Committee on Legislation and a Committee on Platform and Resolutions. At least two (2) members of each standing committee shall be members of the State Committee. Except as otherwise provided herein, the Chairman and members of all committees shall be appointed by the State Chairman. Each standing committee to the extent feasible shall have equal representation from both sexes.

There shall be by appointment of the State Chairman an Advisory Council to deal on Community and Public Af-

fairs which shall function through appropriate sub-committees on Education, Transportation, Housing, Civil Rights, any any other subjects concerned with the public welfare. This Committee shall work in close liaison with the Research Director.

Section 3. Executive Committee.

- (a) The Executive Committee shall consist of the Chairman, the Vice Chairman, the Secretary, the Treasurer, Chairman of the Law Committee, Chairman of the Finance Committee, Assistant Secretary, Assistant Treasurer, the Director of Organization, the Chairman of the Advisory Council, and the Chairman of the Democratic Labor Task Force, two (2) members from each of the eleven (11) Judicial Districts in the State, one male and one female, elected by the State Committee members from each of such Judicial Districts, and eight (8) at-large members, four male and four female, to be elected by the entire membership of the State Committee upon nomination by the Chairman.
- (b) Except in a Judicial District consisting of only one county, no more than one of the Judicial District representatives shall be from the same county. Where one county has more than a majority of the members of the State Committee from a Judicial District, the State Committee members from such county shall elect one (1) of the Executive Committee members, and the State Committee members from other counties of such Judicial District shall elect the other member of the Executive Committee.
- (c) The representatives of the Judicial Districts shall be members of the State Committee, or Chairmen, or Co-Chairmen or Vice-Chairmen of County Committees, or County Executive Committees or officials of

Rules of the Democratic Party of the State of New York.

County Committees who occupy positions having similar duties and responsibilities.

- (d) The Chairman and Secretary of the State Committee shall be the Chairman and the Secretary of the Executive Committee respectively.
- (e) Regular meetings of the Executive Committee shall be held in each of the months of February, June, November of each year on such days at such hours and places as shall be designated by the Chairman.
- (f) Special meetings of the Executive Committee shall be held at the call of the Chairman or upon written request of ten of the members of the Executive Committee addressed to the Chairman or Secretary.
- (g) The Secretary shall give written notice of regular meetings of the Executive Committee to each member of the Committee, not less than seven (7) days prior to the date of each meeting. Special meetings of the Executive Committee held upon the call of the Chairman shall be upon such written notice as the Chairman may direct. Special meetings of the Executive Committee held upon the request of ten (10) of the members shall take place within twenty (20) days after such request and upon at least seven (7) days prior written notice.
- (h) A member of the Executive Committee may authorize as his proxy only another member of the Executive Committee, but in no event shall a member of the executive committee hold more than one proxy.
- (i) Fifteen (15) members of the Executive Committee present in person shall constitute a quorum for the transaction of business. Less than a quorum may adjourn the meeting and notice of adjournment shall be given in the same manner as notice of meeting.

(j) Except in matters which require the action of the State Committee under the provisions of the Election Law, or in matters otherwise specifically provided for in these Rules, the Executive Committee shall have power to act for the State Committee between meetings of the State Committee, and any action of the Executive Committee may be overruled by the State Committee.

Section 4. Finance Committee. There shall be a Finance Committee which shall have the responsibility for raising funds for the State Committee.

Section 5. Law Committee. There shall be a Law Committee and each County shall be represented thereon by a member appointed by the State Chairman on nomination of the respective County Chairmen.

Section 6. Campaign Committee. There shall be a Campaign Committee which shall have responsibility on a year-round basis for the planning, organization, and conduct of Statewide election campaigns and shall assist local and County Committees in their election campaigns.

Section 7. Committee on Legislation. There shall be a Committee on Legislation which shall work with the Research Director and shall prepare and issue reports and statements affecting legislation on all levels of government.

Section 8. Committee on Platforms and Resolutions. There shall be a Committee on Platforms and Resolutions which shall prepare, consider and report on all platform proposals, petitions and resolutions.

Section 9. Special Committees. The Chairman shall have power to appoint from time to time such Special Committees as may be necessary or appropriate.

Rules of the Democratic Party of the State of New York.

Section 10. Research Director. There shall be a Research Director appointed by the Chairman, and such staff members of a research division as shall be appropriate on a full-time, year-round basis.

Section 11. Director of Organization. There shall be, at the discretion of the Chairman, a Director of Organization, whose functions it shall be to travel throughout the State and keep in close contact with the county organizations.

Section 12. Term of Office. All officers elected under these Rules and members of the Executive Committee shall hold office during the term of the State Committee which elected them until their successors are elected. Officers may be removed by a vote of a majority of the members of the State Committee at any meeting where notice under Article III of such business has been given.

Section 13. Filling of Vacancies.

- (a) In case of the death, declination, disqualification, resignation, removal from district or removal from office of a member of the State Committee, or failure to elect a member, as by reason of a tie vote, the vacancy of such State Committee caused thereby shall be filled by the remaining members of such State Committee by the selection of an enrolled voter of the Democratic Party qualified for election from the unit of representation as to which such vacancy shall have occurred.
- (b) In the event of death, declination, disqualification, resignation, or removal from office of an officer, such vacancy shall be filled by a majority vote of the members of the State Committee at the meeting where such vacancy shall occur or be reported or at a subsequent meeting.

ARTICLE III

MEETINGS

Section 1. Regular Meetings. At least three (3) regular meetings of the State Committee shall be held each year as close as feasible to the months of January, April and September, at such times and places as may be fixed by the Chairman thereof, but in alternative locations, downstate and upstate, upon ten (10) days prior written notice in addition, there shall be at least one (1) regional meeting of the State Committeemen in the Northern, Western, and Central portions of the State respectively.

Section 2. Special Meetings. Special meetings of the State Committee may be called by the Chairman at any time on ten (10) days prior written notice. Special meetings shall also be called by the Chairman upon the written request of at least one-sixth of the State Committee members, which request shall state the purposes thereof. Meetings shall be held on the date designated in the request, provided such date is not less than ten (10) days following receipt of the request. The Chairman shall call meeting and give at least ten (10) days prior written notice thereof.

Section 3. Quorum. Except as provided in Article I, Section 3(a)(i) and Section 3(b)(i), one hunderd (100) members of the State Committee present in person or by proxy in conformity with these rules shall constitute a quorum for the transaction of business. Less than a quorum may adjourn the meeting and notice of adjournment shall be given in the same manner as notice of meeting.

Section 4. Proxies. The use of proxies at meetings of the State Committee shall be limited as follows:

Rules of the Democratic Party of the State of New York.

- (a) A proxy holder must be a resident of the same Judicial District as the State Committee members giving the proxy.
- (b) No individual may hold more than five (5) proxies at any meeting; proxies shall be non-transferable.

Section 5. Holdover. Until the meeting of the State Committee for organization, the officers of the outgoing Committees shall continue in office until the election of their respective successors.

Section 6. Order of Business. At all meetings of the State Committee, the following shall be the order of business.

- (a) Calling of rolls
- (b) Filling of vacancies
- (c) Election of officers
- (d) Unfinished business
- (e) Reports of officers
- (f) Reports of committees
- (e) New business

There shall be a report from all Standing Committees at each regular meeting of the State Committee. There shall be included on the agenda of any meeting of the State Committee any item or resolution that shall have been requested in writing of the Chairman or the Secretary by ten (10) or more members of the State Committee at least ten (10) days prior to the date of such meeting. Any such resolution shall be sent with the Notice of Meeting required by Section 1 hereof. In addition, other than mat-

of officers, special provisions for which are herein otherwise provided, all other business may be brought to the floor at each duly constituted meeting of the State Committee upon motion duly seconded by two (2) members of the State Committee. A proposed resolution a written copy of which has not accompanied the Notice of Meeting, may not be adopted by a vote of less than two-thirds (%) of the members attending in person or by proxy.

- Section 7. Voting. The following method shall be used when there is voting by roll call:
- (a) The roll shall be called by assembly district starting with the first assembly district and continuing in order to the 150th assembly district;
- (b) The member present or the proxy shall cast the vote allocated, at the time the district is called, or shall be recorded as "passed";
- (c) Upon completion of the roll, the Chair shall order the roll to be called once again in order of assembly districts for just those members or proxies who are recorded as passed, or who were not present during the first Call;
- (d) Upon the conclusion of the Roll Call in "c" above, the balloting is closed for that Roll Call.

ARTICLE IV

DUTIES OF OFFICERS AND STATE COMMITTEE MEMBERS

Section 1. (a) The Chairman, Secretary, Treasurer and other officers provided for in these rules shall perform the duties usually incident to their respective offices or as may be assigned to them.

Rules of the Democratic Party of the State of New York.

- (b) The Chairman. In addition to the duties usually incident to his office, the State Chairman is empowered:
- (i) to convene binding arbitration panels for consideration of intra-party disputes submitted by contending parties within the Party which are not capable of being settled in Primaries.
- (ii) to act, and he shall be so recognized, as the top leader of the Democratic Party in New York State, and to serve as formal Chairman of all state-wide election campaigns.
- (iii) to convene periodic meetings with the Democratic leaders of the Legislature in Albany and with Democratic members of the New York State Congessional Delegation in Washington in order to translate the views of the State Party on substantive issues into public policy and to inspire and mobilize vigorous public and Party support of all major legislation which implements the New York State Democratic Party Platform and progress, and to challenge or expose the errors or inadequacies of the Republican Governor and other Republican officials of the State.
- (c) The Vice Chairman shall have such duties and responsibilities as may be determined by the State Committee or the Chairman.
- (d) The Treasurer shall file an annual written audited financial report in the office of the State Committee, which shall be available for inspection at any time by any member thereof.
- (e) Expenditures shall be made by order of and upon vouchers signed by the Chairman or the Treasurer.

- (f) The Chairman and Treasurer may prepare an annual administrative budget which shall be submitted to the Executive Committee.
- (g) In addition to the duties, powers and functions prescribed by the Election Law and these rules, it shall be the responsibility of members of the State Committee to disseminate, within their respective Assembly Districts, information with respect to State Committee policies and programs, for the purpose of effectuating such policies and programs. To this end, the State Committeemen shall maintain continuing liaison with the head of the Research Division of the State Committee and with the Chairman of all Standing Committees. Such information or community action project on behalf of the State Committee should be undertaken in consultation with the local county leadership of the Party, and enlist their support and keep them fully advised of all steps taken in furtherance of the project.

ARTICLE V

AMENDMENTS

These rules may be amended from time to time by a majority of the members of the Committee present in person, or by proxy, at a meeting at which there is a quorum, provided a copy of the proposed amendment shall be sent with the notice of the meeting at which such amendments is to be proposed.

ARTICLE VI

MISCELLANEOUS

Section 1. Rules of Procedure. In all cases not provided for by law or by the Rules, the authority for parlia-

Rules of the Democratic Party of the State of New York.

mentary procedure for the State Committee and the Executive Committee shall be "Robert's Rules of Order", latest edition insofar as such rules of order may be appropriately applied.

- Section 2. Minutes. Minutes of the meeting of the State Committee and the Executive Committee shall be recorded and sent to all members of these committees.
- Section 3. Copy of Rules. A copy of these rules shall be on file in the office of the Democratic State Committee and shall be made available on request to any duly enrolled Democrat.
- Section 4. Salary. The State Committee or the Executive Committee in its place may fix a salary for the Chairman of the State Committee in an amount as may be determined from time to time.

Section 5. Funds and Borrowing.

- (a) The funds of the State Committee shall be deposited from time to time in such financial institutions authorized to do business in the State of New York as may be determined by resolution of the State Committee or the Executive Committee, or by the certificate of the Chairman and the Treasurer of the State Committee, and all withdrawals from any such bank accounts shall be by check or draft signed by the Chairman, the Treasurer or the Assistant Treasurer.
- (b) The Chairman and the Treasurer, jointly, are authorized and empowered to borrow from any financial institution authorized to do business in the State of New York, or from any partnership or individual, from time to time, as in their judgment may be deemed appro-

priate or necessary to the business and affairs of the State Committee, such sum or sums of money, upon such terms and for such periods of time as they may deem appropriate, for proper expenses in connection with the conduct of an election campaign (but not a primary campaign) or for the expenses of maintaining and carrying on the business of the State Committee between election campaigns; provided however that such authorization and power to borrow funds shall be subject to such restrictions as the State Committee or Executive Committee may from time to time determine. Any such borrowing shall be evidenced by the promissory note or notes or written evidence of indebtedness, and obligation of the State Committee, signed by the Chairman and Treasurer. Money so borrowed by the Chairman and Treasurer, jointly, shall be deposited in the name of the State Committee. In the absence or unavailability of the Treasurer or Assistant Treasurer, the Secretary may perform any of the duties or functions hereinabove provided for in this subdivision (b) of Section 5 of Article VI.

Section 6. Obligation of Candidates seeking or holding Party or Public Office. All of those persons seeking or holding party or public office under the Democratic Party label or Democratic Party name, thereby undertake, while so serving or seeking to serve, not to oppose publicly the election of any Democratic nominee for office in New York State.

Section 7. Appendix. There shall be appended to these Rules, as a part thereof, all reference of state statutes related to selection of delegates to the Democratic National Convention. As last amended December 15, 1975.

Rules of the Democratic Party of the State of New York.

APPENDIX A

	HII BUDIA A
§ 10-14	The foregoing sections define "Party" Committees and provide for the election of State and County Committee members. They provide for the lawful structure of the State Committee which creates the "Rules" for selection of "Delegates to National Party Conventions".
§ 15	Organization and Rules of State and County Committees
	Defines the method of electing members and creating the Rules of State and County Committees.
§ 18	Provides for the Filing of the "Party Call" and is related because it relates to the Party Positions of members of the State Committee and delegates/alternates.
§ 20	Guidelines for Name and Emblem of Political Parties.
§ 21	Delegates to National Party Convention
	Defines the method of selecting and qualification of such delegates and alternates.
§ 104	Provides for the Order of Names upon the Ballot
§ 108	Provides for the Form of the Ballots for Primary Election
§ 132	Conventions

Provides for the holding of State Conventions, the adoption of Party "platforms and

policies", election of "Party officers", and the transaction of "other business relating to party affairs" and the general conduct of State Conventions.

§ 134, 135, 136, 137	Relate to the Rules and Form of Designating Petitions
§ 139, 140, 142	Relate to Accepance or Declination of Nomination and Filling Vacancies
§ 143	Provides for the Dates of Filing of Forms in Connection with Petition
§ 144	Provides for Places for Filing Petitions
§ 145	Relates to Objections to Petitions
§ 148, 148a	Relate to Write-in Candidates
§ 270, 271	Provides for the canvass of Primary re- turns and notice of election to delegates and alternates, as well as certification.
§ 320-327	Provides for the filing of Statements of Campaign Receipts and Expenditures, the Time and Places of Filing and the Rules and Regulations relating thereto
§ 330, 336	Judicial Proceedings

The following is a reference to relevant sections of the New York Election Law that are directly related to the delegate selection process, as required by CRC Reg. 8.06:

The election of district delegates and district alternates from the State's 39 Congressional Districts (Section 21) is presently scheduled for the first Tuesday in April, known as the Spring Primary (Section 191).

Rules of the Democratic Party of the State of New York.

The election of at-large delegates and at-large alternates shall be by the New York State Democratic Committee pursuant to New York Democratic Party Rules adopted by the State Committee (Sections 15 and 21). The members of the State Committee are elected in each of the 150 Assembly Districts in New York State. The State Committee is composed of one male and one female representative from each of the 150 Assembly Districts. Additional members (given a proportional weighted vote) are elected to the State Committee by the enrolled Democrats within a county, in those Assembly Districts that are not contained wholly within a county (Section 11; N.Y. Democratic Party Rules, Article 1, Section 2(a).

Only voters enrolled as Democrats are allowed to vote in the Democratic Party Spring Primary (Section 21). A candidate for district delegate or district alternate must be an enrolled Democrat (Section 21). A candidate for member of the State Committee must be an enrolled Democrat and a resident of the Assembly District which he or she seeks to represent (Section 11).

Not later than the twelfth Tuesday before the Spring Primary, a Party Call will be issued for each of the State's 62 Counties to be filed with the Board of Elections. Each Call will include the member of the district delegates and district alternates, and the number of members of the State Committee to be elected in the respective Congressional Districts and Assembly Districts within each County (Section 18).

In order for a candidate to have his or her name placed on the Primary ballot a designating petition must be filed by such candidate with the appropriate Board of Elections. There is no filing fee. The form to which such petition must conform is specified in the law (Section 135).

Present law requires that the petitions for district delegates or district alternates be signed by not less than 5% of the enrolled Democratic voters in the Congressional District, but in no event is the number of signatures required to exceed 1250 (Section 136.6(g) and 136.7). Present law requires that petitions for members of the State Committee be signed by not less than 5% of the enrolled Democratic voters in the Assembly District, but in no event is the number of signatures required to exceed 500 (Sections 136.6(i) and 136.7).

The first day for signing petitions is 12 weeks before the Spring Primary Election (Section 136.9). These petitions must be filed no earlier than the eighth Monday and no later than the seventh Thursday preceding the Spring Primary (Section 143.1). The law allows for declinations and substitutions (Sections 139, 140 and 142) and also provides a method by which to object to the petitions (Section 145) and a recourse to the State Supreme Court for any aggrieved party member or candidate (Section 330). Opportunity to ballot in a Primary Election for a write-in candidate is also afforded Democratic voters (Section 148 and 148 (a).

Designating petitions for the position of delegate or alternate to the 1976 Convention can designate one or more candidates (Section 136). The candidates' positions on the ballot are determined by lot except in the City of New York where they are rotated (Section 104 and 242 (a). Candidates can be grouped together if they were filed on the same designating petition (Section 104 and 242 (a).

A canvas of the Spring Primary returns, notice of election and certification of election is provided for (Sections 270 and 271).

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